IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF AUGUST

TWO THOUSAND AND SEVEN

:PRESENT:

THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO : 17027 of 2006

Between:

1 K. Rakesh Reddy, S/o. K. Eshwar Reddy,

2 C. Vasumathi, W/o. C. Vijayender Reddy,

..... PETITIONERS

AND

1 L.B. Nagar Municipality, Rep by its Commissioner, L.B. Nagar, Ranga Reddy District.

2 Hyderabad Urban Development Authority, Rep by its Vice Chairman and Managing Director, Begumpet, Hyderabad.

3 Director of Town and Country Planning, Government of Andhra Pradesh, Hyderabad.

4 Government of Andhra Pradesh, Rep by its Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad.

5 The State of A.P. rep. by the Prl. Secretary, Revenue Dept., Secretariat, Hyderabad

(R5 is impleaded as per court order dt. 21-8-2007)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ declaring that the action of the 2nd respondent contained in Lr. No. 3786/PR/PLG/H/05, dated 15-5-2006, canceling the technical sanction accorded to the petitioner pursuant to the building application dated 13-4-2005, is arbitrary and illegal and consequently direct the 1st respondent to release the building permit in favour of the petitioners in respect of Plot Nos. 141 to 144 and Plot Nos. 72 situated in Sy. Nos. 101/14, 101/15, 101/17, and 101/18 of Nagole Village, Uppal Mandal, Ranga Reddy District.

The petition coming on for hearing, upon perusing the petition and the affidavit filed herein and upon hearing the arguments of SRI VEDULA VENKATARAMANA, Advocate for the Petitioner and of Sri P. Radhakrishna, S.C. for L.B.Nagar Municipality for the respondent No.1 and of Sri T. Niranjan Reddy, Advocate for the respondents 2 and 3 and of the Govt. Pleader for Municipal Administration for the respondent No.4, the Court made the following:

ORDER: The writ petition is directed against the letter bearing reference No. 3786/P4/Plg/H/05 dated 15-05-2006 of the second respondent whereby the first respondent is directed " …. Not to release the technically approved plans, withdrawn and cancelled the building plans till further orders." The petitioners claim to be owners of land in Plot Nos. 141 to 144 in an extent of 2184 square yards situate in Survey No. 101/18 of Nagole village, Uppal Mandal,

Ranga Reddy District having purchased the same under a registered sale deed dated 02-05-1991. The petitioners submitted an application to the first respondent for building permission for construction of a building comprising stilt plus five floors of residential apartments. According to the petitioners, as per the operative legal regime, a building permission has to be referred by the first respondent to the second respondent for what is known as ' technical sanction'. The second respondent by a communication bearing reference L.R.No. 3786/PR/Plg/HUDA/2005 dated 30-09-2005 addressed to the first respondent intimated grant of technical approval pursuant to the petitioners, application routed to the second respondent by the first respondent. The intimation of grant of such ' technical approval' was not however communicated to the petitioners by the second respondent but was addressed exclusively to the first respondent.

By the impugned proceedings, the second respondent has in substance disabled the first respondent from considering the petitioners' application for building permission. It is not clear whether the second respondent's communication dated 15-05-2006 (impugned) constitutes cancellation or suspension of the earlier grant of ' technical approval.' The impugned communication dated 15-05-2006 of the second respondent has also not been communicated to the petitioners. It is suggested at the Br that there is no extant practice of communication of ' technical approvals' to an applicant and that such communications are addressed only to the Municipality or the Municipal Corporation concerned. Be that as it may.

The directive issued by the second respondent to the third respondent is founded on a letter dated 24-12-2005 addressed by the third respondent to the fourth respondent intimating that the

lands in survey Nos. 101/1 to 101/20 of Nagole village are Government/Assigned lands. The letter of the third respondent requested the fourth respondent to direct the municipal authorities to cancel all permissions issued in the assigned lands. The second respondent's letter dated 15-05-2006 does not clarify whether the fourth respondent had addressed the second respondent to cancel the permissions (technical sanction) granted. However, the second respondent has issued the impugned order. It is not known whether any authority has taken steps under the provisions of any law to cancel the assignment made in favour of the vendors of the petitioners or to set at naught formally the transfer of title in favour of the petitioners. It is not even known from these proceedings as to within what time frame such formal proceedings after following due process, will be pursued.

In the circumstances, the fifth respondent shall respond by the next date of hearing by a counter affidavit as to what steps if any have been initiated for disentitling the petitioners to the enjoyment of their property and under what legal regime and procedure. The fifth respondent shall file the counter affidavit by 04-09-2007. Call on 04-09-2007.

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

To

1 The Commissioner, L.B. Nagar Municipality,
L.B. Nagar, Ranga Reddy District.
2 The Vice Chairman and Managing Director, Hyderabad Urban Development Authority, Begumpet, Hyderabad.
3 The Director of Town and Country Planning, Government of Andhra Pradesh, Hyderabad.
4 Government of Andhra Pradesh, Secretary, Municipal Administration and Urban Development Department, Secretariat,

Hyderabad.

5 The Principal Secretary, State of A.P. Revenue Dept., Secretariat, Hyderabad. (1 to 5 by RPAD)

6. 2 CCs to the Advocate General, High court of A.P.Hyd. (O.U.T)(BY SPL. MESSENGER) (for communication to the fifth respondent)

7. 2 CCs to the Govt. Pleader for Municipal Administration, High court of A.P.Hyderabad. (O.U.T)

8. One C.C.to Sri Vedula Venkataramana, Advocate. (OPUC)

9. one spare copy.

Bsr

HIGH COURT

GR.J.

DATED 21-8-2007

NOTE: CALL ON 04-09-2007.

ORDER

W.P.NO. 17027 OF 2006

DIRECTION

BSR
DT. 23-8-2007

HIGH COURT

GR.J.

DATED 21-8-2007

NOTE: CALL ON 04-09-2007.

ORDER

W.P.NO. 17027 OF 2006

DIRECTION